

REMARKS/ARGUMENTS

Favorable reconsideration of the present application, in light of the included amendments and following discussion, is respectfully requested.

Claims 42-82 are pending. Claims 63-82 are withdrawn. Claims 1-41 were cancelled previously. Claim 42 is amended to further specify the meaning of an existing term. No new matter is added.

In the outstanding Office Action, Claims 42-49 and 62 were rejected under 35 U.S.C. §103(a) as obvious over Droin (U.S. Patent No. 4,071,083) in view of Takayasu (U.S. Patent No. 5,874,178). Claim 50 was rejected under 35 U.S.C. §103(a) as obvious over Droin, Takayasu, and Laber (U.S. Patent No. 4,182,408). Claims 51-55 and 57-59 were rejected under 35 U.S.C. §103(a) as obvious over Droin, Takayasu, and Menicatti et al. (U.S. Patent No. 4,899,813, herein "Menicatti"). Claims 56, 60, and 61 were indicated as reciting allowable subject matter.

Applicants note with appreciation the indication that Claims 56, 60, and 61 recite allowable subject matter.

Regarding the rejection of Claim 42 as obvious over Droin in view of Takayasu, that rejection is respectfully traversed by the present response.

Independent Claim 42 recites, in part:

an external layer configured to tolerate a predetermined pressure load, subject to corrosion by contact with the highly aggressive process fluid;

an intermediate **laminar** layer made of stainless steel;
and

an anticorrosive lining in contact with the highly corrosive fluid, including a material selected from titanium, zirconium, or an alloy of one of these.

Accordingly, the apparatus includes an external layer configured to tolerate a predetermined pressure load and an intermediate **laminar layer** made of stainless steel.

The outstanding Office Action refers to the Office Action dated October 20, 2008, for the details of the rejection of independent Claim 42. The Office Action dated October 20, 2008, relies on Takayasu for the feature of the three-layered wall recited in independent Claim 42.

The term "laminar" in amended independent Claim 42 to describes the intermediate layer and clarifies that the intermediate layer (for example, layer "B"), does not correlate to a metal mesh analogous to the one described in Takayasu. The term "laminar layer" is in fact associated with the term "plate" or "foil" (pls. See "The Webster Dictionary" or on the website www.dictionary.com wherein "Laminar"= constituted of **a thin plate, sheet, or layer**), thus, the laminar layer provides a substantial continuity (uninterrupted), except for the junction areas with other elements of the claimed apparatus, as for examples in the pipe connection points.

The term "laminar layer" clearly patentably distinguishes from a "metal mesh" as described in Takayasu.

In addition to the dictionary definition provided above, the specification further discusses the laminar layer as follows:

- at line 4 is reported the term "laminar layer";
- at lines 12-15: "the laminar layer 22 can consist of laminar elements... welded to each other, ...or, ...a welding deposit";
- at lines 17-21, "the layer 22 (i.e., the B laminar layer) is strength welded with the external layer 24 of the tube ..., so that the two layers form a continuous and sealed structure with respect to the carbon steel of layer 21."

Accordingly, in light of the ordinary meaning of the term "laminar" as evidenced by the above-noted dictionary definition, and in light of the discussion in the specification, a

person of ordinary skill in the art would understand "laminar layer" as recited in amended independent Claim 42 to differ from the mesh described in Takayasu.

Takayasu includes further deficiencies that make it irrelevant as a reference: for example, the three layers of the "cladding material" described in Takayasu may be formed of many different materials.

- The first layer in Takayasu is (i) carbon steel or (ii) stainless steel.
- The second layer in Takayasu is (i) stainless steel, (ii) nickel, or (iii) copper.
- The third layer in Takayasu is (i) stainless steel, (ii) titanium, (iii) zirconium, (iv) niobium, (v) tantalum, or (vi) nickel.

Thus, Takayasu includes a variety of different materials. In this regard, a person of ordinary skill in the art would have had no apparent reason to select the specific combination recited in Claim 42.

The Supreme Court established in KSR Int'l Co. v. Teleflex Inc. that a **supported rational** reason must be provided as a basis for a conclusion or a determination of obviousness. In Ex parte Whalen, 89 USPQ2d 1078 (BPAI, July 23, 2008), the Board of Patent Appeals and Interferences applied the legal standard set forth in KSR:

The *KSR* Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." *Ex parte Whalen*, 89 USPQ2d at 1084, (quoting *KSR Int'l Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (2007) (citations omitted).

Thus, merely showing that the claimed elements existed before the claimed invention was made is insufficient to prove obviousness. Nor is it sufficient to establish that a person of ordinary skill in the art would have been capable of modifying the cited references to produce the claimed invention. Rather, it must be shown, without using impermissible

hindsight, that a person of ordinary skill in the art would have had an apparent reason to modify the references to produce the claimed invention.

There is no apparent reason for a person of ordinary skill in the art to reproduce the particular combination according to amended Claim 42 based on the variety of materials described in Takayasu.

Each of the remaining active dependent claims depends from independent Claim 42 and patentably distinguishes over any proper combination of Droin and Takayasu for at least the reasons discussed above with respect to independent Claim 42.

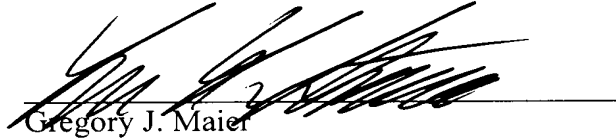
The outstanding Office Action relies on Laber for the feature of weep holes and Menicatti for the feature of multi-layered tubes. However, neither Laber nor Menicatti remedies the deficiencies discussed above with regard to Droin and Takayasu in relation to independent Claim 42. Laber is devoid of a stainless layer. Menicatti describes a stainless steel tube with an inner liner, i.e., the stainless steel is not an intermediate layer, but is instead an outermost layer. Accordingly, Applicants respectfully submit that no proper combination of the cited references would include all the features of amended independent Claim 42 or any of the claims depending therefrom.

As the amendment to Claim 42 specifies the meaning of a term already existing in Claim 42 that was understood from the context of the claim and specification, Applicants respectfully submit that no new issues are raised by the present Amendment, and the Amendment should be entered in accordance with 37 CFR § 1.116 as placing the application in better form for appeal.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

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